

# NEWS ANALYSIS

All articles written by David Simpson unless otherwise attributed. Ideas and items for News Analysis should be sent to David Simpson at the address given on the inside front cover.

## Philippines: sacred and profane

As long term readers will recall, tobacco promotion is so confident and unrestrained in the Philippines that Fortune Tobacco, the local big player, can exploit the allegiances of the country's Catholic majority by linking its products to figures from the Christian bible story, particularly the Virgin Mary, mother of Jesus Christ. It is common for Filipinos to place religious images in their homes, cars, shops, and offices, many no doubt produced by commercial interests. However, for the exploitation of religion to sell cigarettes, the latest in a series of promotional calendars produced by Fortune gives even British American Tobacco (BAT), whose Pakistan excesses were featured in our last issue (*Tobacco Control* 2001;10:93-4), a run for its money.

Fortune has been producing religious calendars for over a decade. In 1990, it used a classical representation of Mary holding the infant Jesus, with nine of the cigarette brands made or marketed by the company arranged neatly in the foreground, above the dates. The 1994 calendar ("Our Lady of Cigarettes", *Tobacco Control* 1994;3:200) showed a figurine of Mary wearing a gold crown above pure, white robes against a plain dark background, hands held in attitude of prayer, this time with 10 cigarette brands. The following year, 1995, Fortune tried a contemporary depiction of Mary. Once again she is holding baby Jesus, and this time his hand seems to be reaching out towards the cigarettes in Mark, or possibly Champion, two of the nine brands, all open and with cigarettes protruding, that partially obliterate the bottom edge of the painting.

For 1996, Fortune developed the calendar still further, perhaps reflecting a steady growth in sales that the company might have viewed as little short of, well, divine. The 1994 figurine of Mary was recycled, but this time a tasteful background frame was added, a garland of yellow roses,

perhaps to counter emerging perceptions of the company's products as being somewhat less than fragrant. The foreground display had almost doubled, to a record 17 brands.

In 1997, Fortune took a somewhat backward step in terms of religious hierarchy, when its calendar featured



The 2001 calendar produced by Fortune in the Philippines. To see samples of previous calendars go to [www.tobaccocontrol.com](http://www.tobaccocontrol.com).

St Teresa of Avila (curiously, the patron saint of headache sufferers), once again with 17 brands; but this slight demotion was nothing compared to another calendar offered by the company that year, featuring four “pin-ups” at the very opposite end of the sacred-to-secular scale (*Tobacco Control* 1997;6:357–8; the saint was erroneously identified as Mary).

The religious calendar series continued, however, and the Fortune marketing people reverted to the Holy Family with gusto. And if the earlier creations in this genre pushed their luck with religious feelings, this year they went for broke. Casting aside any remaining reticence about the use of holy icons to further cigarette sales, for 2001 they fielded the ultimate Christian double bill—not just the Virgin Mary, but the adult Jesus Christ as well. The roses have turned mauve, formed themselves into the shape of a heart, and become the inner edge of a masking frame for the sacred pair. Looking more like film star lovers than holy mother and son, they solemnly raise their hands in blessing—above 15 of the company’s cigarette brands.

Interestingly, many of the brands offer identification potential to satisfy religious and secular preferences alike. There are Hope, Liberty, Evergreen, and Peak, all chiming with spiritual values, while Mark is surely a blatant case of hostage-taking of one of the four Gospel authors. Those who give themselves to more earthly aspirations can choose from More, Fortune, Boss, and Champion, leaving Westpoint, Winter, and Plaza for the undecided. Camel, which was present in the earlier calendars, is prominent by its omission in 2001. Perhaps this is because of changes made by the new owners of the international (non-US) version of the brand, Japan Tobacco; or could it be the subconscious avoidance of some uncomfortable word association by Fortune’s directors? As well educated Catholics, they will know that Jesus said it was easier for a camel to pass through the eye of a needle than for a rich man to enter the kingdom of heaven. Better to quit while they’re ahead.

## Australia: lawyers ponder tobacco firms’ criminal liability

Over 20 years ago, Ernest Pepples, a Brown & Williamson lawyer, dared

put the unmentionable to paper—the possibility that the industry might be held *criminally* liable for its conduct. He wrote: “If we admit that smoking is harmful to heavy smokers, do we not admit that BAT has killed a lot of people each year for a very long time? Moreover, if the evidence we have today is not significantly different from the evidence we had five years ago, might it not be argued that we have been ‘wilfully’ killing our customers for this long period? Aside from the catastrophic civil damage and governmental regulation which would flow from such an admission, I foresee serious criminal liability problems.”

Pepples’ anxiety is easily understood. The proposition that the criminal law ought to apply to, and punish, those who knowingly engage in conduct that causes death and disease is hardly novel. It does precisely that, every day of the week, in courtrooms across the globe. But not, so far, against this industry.

There have now been several successful *civil* lawsuits, most notably in the USA. Among its great successes, the US litigation has led to the release of countless previously secret industry documents. These documents have often been described as “incriminating”. But if “incrimination” refers to crime, as it literally does, where have the criminal prosecutions been?

Could tobacco companies be held criminally liable for their conduct, even if it were accepted that they have complied fully with all laws relating specifically to tobacco? This question was debated in May this year by law students from Monash and Melbourne Universities in a moot (simulated) court, organised by the VicHealth Centre for Tobacco Control in conjunction with Vic Health, and run as the inaugural VicHealth Legal Issues in Public Health Challenge. A high profile bench—comprising a former Supreme Court judge, Victoria’s current Law Reform Commissioner, and a widely respected emeritus professor of criminal law—heard the case, which took the form of an appeal by a fictional tobacco company against a conviction for conduct endangering life under the *Crimes Act 1958* (Vic). The section under which the company was charged (section 22) provides: “A person who, without lawful excuse, recklessly engages in conduct that places or may place another person in danger of death is guilty of an indictable offence.” The term “person” includes both natural persons and corporations.

Being a moot court, the judges did not decide the legal issues argued, only the better “mooting” team, and the best individual advocate. However, it was patently clear from the arguments made by the students, and comments from the bench, that the issues were genuine ones. The idea that tobacco is a “legal product” and that therefore the industry cannot be held criminally liable was shown to be specious. The argument that compliance with a specific regulatory scheme is a complete defence to a criminal charge was shown to be a nonsense. The legislative and regulatory background form only part of the circumstances in which issues of criminality have to be assessed.

Of particular interest were two issues: whether the argument about criminality depends on showing that the industry has acted in ways beyond that covered by tobacco legislation and regulations—such as by engineering the product so as to make it more attractive or more addictive, or failing to offer assistance, such as cessation programmes, to people it has addicted as children; and just how far the line of criminality might run—perhaps through to company directors, advertisers, marketing executives, and lawyers.

The moot court represented an initial step towards having the industry’s conduct examined in a criminal liability context. On the day after the moot, Victoria’s top selling newspaper ran a piece in which a leading criminal law barrister was quoted saying “it is something that will undoubtedly hit the courts at some stage”.

If we begin to think of many current practices of the industry as possibly criminal, we take a major step towards conceiving of tobacco regulation as essential, and as a necessary expression of underlying legal realities, rather than a radical encroachment on a legitimate industry.

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## Japan: can local action do the trick?

In a number of areas of law and policy in Japan today, the cutting edge has been shifting from the national government to local governments. Historically, local governments have been disabled by the constitutionally stronger central government, but in recent years, power seems to be shifting as the central government’s inertia



during the 1990s decade long recession has weakened its footing.

This trend is evident in tobacco policy where local tobacco control efforts are actively underway. While the 2000 failure of a national tobacco consumption reduction plan ("Healthy Japan 21" or HJ21) illustrated the central government's limited engagement in tobacco control policy, since the early 1990s, local governments have stepped forward to establish increased non-smoking areas in public spaces and controls on cigarette butt littering. Now, two new contentious issues are emerging: controls on outdoor vending machines, and aggressive local public health promotion campaigns.

With regards to non-smoking areas, local governments throughout Japan have been active in defining non-smoking areas in city halls, public transport, parks, and other public spaces. The seating areas of major league baseball stadiums in Yokohama and Kobe were designated non-smoking in 2000. In April 2001, Miyagi Prefecture joined a long list of prefectures with improved restrictions in government offices by switching from having just two hours per day of "no smoking time" to a full time smoking prohibition, albeit with a limited number of designated smoking areas.

Cigarette butt littering ordinances emerged in Japan through the 1990s. The first was enacted in rural Kitano Village of Fukuoka Prefecture in October 1992. The following November, Wakayama City became the first major population centre with such a rule. By November 1997, 130 cities, towns, and villages had enacted cigarette butt littering ordinances. Only three years later, a November 2000 article in the *Japan Times* reported that nearly one thousand municipalities had jumped on the bandwagon.

Littering ordinances are politically easy to accomplish but have accomplished relatively limited results. Although most ordinances include the potential for fines in their enforcement mechanisms, no one knows of any fine ever having been imposed. Osaka City conducted a survey in 1993 that showed 60% of walking smokers to be throwing their cigarette butts away and that tobacco butts made up 90% of road litter. A similar survey in 1998 showed the number of butt-throwing walking smokers had not decreased at all despite a cigarette butt littering ordinance and significant public educational campaigns.



*Some of the students who demonstrated against the decision of Nottingham university to accept funding from BAT, by painting red patches on their faces and picketing the university's annual open day, which they renamed "Red Face Day".*

New battles are now being drawn with regard to controls on outdoor vending machines and local governments' public health promotion campaigns. In December 2000, Mayor Takayoshi Hirasawa of rural Fukaura Village in Aomori Prefecture announced plans to submit to his village council Japan's first prohibition on outdoor vending machines. At stake in the March 2001 proposal were only 32 of Japan's 625 900 cigarette vending machines. Nevertheless, the controversy attracted national media attention and the full weight of tobacco industry lobbying pressure. As with the first cigarette butt ordinance, both sides recognised that rural villages can serve as the harbingers of more widespread changes. The village council passed the non-punitive restrictions by a sweeping 13 to 3 vote.

A number of local governments have begun to implement HJ21 policies with aggressive anti-smoking campaigns. These too have attracted strong industry opposition, which in at least some cases has derailed well intentioned plans. But a few governments have resurrected the HJ21 methodology of evidence based programmes with numerical targets. Most notable is Itami City in Hyogo Prefecture's ambitious goal to eliminate all adult smoking in the city of 190 000 by 2010. Others, such as Machida City's Public Health Centre, have refused to tone down messages explaining the hazards of smoking, rejecting the demands of tobacco industry representatives to include references to purported benefits of smoking, such as "boosting concentration and promoting communication". Meanwhile, perhaps bowing to

pressure from the Ministry of Finance, the national Ministry of Health Welfare and Labour remains relatively quiet, providing little apparent support for these local public health initiatives.

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## UK: university's tobacco stain won't go away

More news from Tobacco University, as the once esteemed institution in Nottingham, in the midlands of England, tends to be known nowadays. Readers will recall that last May, the university accepted a £3.8 million (US\$5.3 million) donation from BAT, to fund an International Centre for Corporate Social Responsibility (*Tobacco Control* 2001;10:1-2). The vice chancellor and his colleagues probably thought that the fury let loose against them in the press, not just from health agencies, but from many senior academics, would soon die down. The Cancer Research Campaign (CRC), a major sponsor of research at Nottingham and pioneer of a code of practice on tobacco funding of research, adopted by many universities and other research institutions in the UK and elsewhere, was prominent among the critics. Give it a week or two, the Nottingham officials must have reassured themselves, and people will turn their attention to something else. The university could then return to full enjoyment of the fruits of a BAT's public relations ploy of quite breathtaking cynicism.

This might be possible with certain other funding considered “controversial” (to use the tobacco industry’s own, coy description), such as money from the oil, nuclear or armaments industries, but Nottingham has found it is not so easy to remove the nasty stain left by tobacco money. Sounding remarkably like a branch of BAT’s public affairs department, the vice chancellor’s office persistently claimed that the deal was consistent with the CRC inspired code. CRC repeatedly tried to correct this nonsense.

However, it was not CRC’s head office, but its fundraisers and scientists in Nottingham who delivered the next body blows. In a poll of CRC’s regional supporters, more than 90% said that, in the light of BAT’s donation, they no longer felt comfortable raising funds for Nottingham. As a result, £1.5 million which was to be raised through an appeal to help build new research facilities in Nottingham will now be donated to Newcastle University instead. And the director of the CRC gene targeted drug design research group at Nottingham, Professor David Thurston, decided to take up a post at the University of London’s School of Pharmacy, taking most of his 15 team colleagues with him. Although he did not want to leave Nottingham and had received strong support from the university’s school of pharmacy, the fact that the CRC and its local supporters were unhappy about the BAT donation made Professor Thurston reconsider his location.

Still the university might have hoped for peace. But in March, students belonging to SASH, the student support group of Action on Smoking and Health, staged a protest at the Nottingham campus to keep up the pressure. In a parody of a popular national charity fund raising day, “Red Nose Day”, SASH members mimed the embarrassment that Nottingham’s officials had so signally failed to demonstrate, by painting red patches on their faces and picketing the university’s annual open day, which they renamed “Red Face Day”.

Meanwhile, the editor of the *British Medical Journal* (BMJ), Dr Richard Smith, considered his part time, unpaid post as professor of medical journalism at Nottingham. In a poll on the BMJ’s website, he asked readers to vote on whether the university should be asked to return the money to BAT, and whether he should resign his honorary professorship if it refused to do so. Of the 1075 votes cast, 84% said that the university should return the money and 54% said that Dr Smith

should resign, which, there being no hint of any change of attitude, he duly did in May.

It is a measure of the power of false and misleading mantras repeated by tobacco interests that, initially, Dr Smith accepted at face value Nottingham university’s assertions about the funding being consistent with the code on tobacco funding of research, and that by implication, CRC agreed. Any misunderstanding was removed when CRC asked, in a letter to the BMJ, who was more likely to be the better judge: the cancer organisation that pioneered the code, or those bankrolled by an industry whose products cause a third of British cancer deaths.

Early in the saga CRC’s director general, Professor Gordon McVie, predicted that the “tainted tobacco cash” would lead to a huge exodus of staff and sponsorship from Nottingham. That exodus has already begun, and reminds us of the frequently under realised power available to funding agencies of integrity, which can use their financial muscle to resist some of the tobacco industry’s most insidious, anti-health activities.

## Kenya: smoke, and be your own boss

Cigarette ads have tried to associate their brands with just about everything that prospective customers might find attractive, from sports and fitness, to independence, good looks, and sexual allure. Many have exploited popular dreams of wealth and quick ways to get it. In Pakistan, while one tobacco company offered

gold ingots to competition winners, another played on increasingly popular aspirations to acquire wealth by running a business, with business loans being offered to promising young entrepreneurs (*Tobacco Control* 2001;10:93–4).

Now, in Kenya, BAT has gone one better. Its Sportsman brand, infamous in East Africa for exploiting the national interest in athletics and other physical sports in which success is so cruelly denied to those who contract heart or lung disease from smoking (see *Tobacco Control* 2000;9:129–30; and 2000;9:269–70), has offered entire, ready made businesses to lucky winners in a promotional draw. The top Grand Draw prize was a business worth one million shillings (nearly US\$13 000), a substantial sum in Kenya. Other prizes were also ready made businesses: three worth Kshs 250 000 each, and six worth Kshs 50 000. A mini-draw offered another six businesses worth Kshs 50 000 each, and sets of business tools: six worth Kshs 25 000, and 15 worth Kshs 10 000.

BAT spokesmen often say how much the company benefits the local economy wherever it operates. One can all too easily imagine how they boasted about this one when talking privately to government officials. Meanwhile, the streets of Nairobi were no doubt alive with the sound of laughing and coughing, as the company’s accountants made their way to the bank, and a swelling band of customers bought yet another pack, in the hope of striking lucky next time.

Win a business worth Kshs. 1,000,000/-

Fungua Biashara na..

Just buy a pack of Sportsman

GRAND DRAW PRIZES  
FIRST: A Business worth Kshs 1 MILLION. SECOND: 36 Businesses worth Kshs 250,000 each. THIRD: 64 Businesses worth Kshs 50,000 each. Lots of consolation prizes.

MINI DRAW  
FIRST: 64 Businesses worth Kshs 50,000 each. SECOND: 64 Businesses worth Kshs 25,000 each. THIRD: 128 Businesses worth Kshs 10,000 each. Lots of consolation prizes.

TRUE SPIRIT. TRUE TASTE.

MINISTRY OF HEALTH WARNING: CIGARETTE SMOKING IS HARMFUL TO YOUR HEALTH  
ONYO LA WIZARA YA AFYA: UVUTAJE WA SIGARA UNADHURU AFYA YAKO

Kenyan advertisement for BAT's Sportsman brand, offering ready made businesses to winners of a promotional draw.



## Turkey: the trade-health divide

Despite Turkey's steady transition from relative poverty and isolation to a modern European nation, it still retains some of its old image. In this country on the join of Europe and Asia, still occasionally emanating more than a whiff of its past mystery, when its Ottoman court ruled over a great empire, all is not always as it seems. Nowhere is this more evident than in the recent history of tobacco, as recorded in several past issues of this journal. Its model tobacco control legislation has repeatedly been the target of attempts to circumvent the total advertising ban it contains. The growth of a strong and active health coalition is more than matched by increasingly subversive measures to establish Formula One motor sport, apparently for the sole purpose of illicit tobacco promotion. It is possibly the unlikely success of health interests, in a country where the international tobacco industry must have least expected serious opposition, that has pushed the tobacco industry's counter offensives deeper underground.

In April, the minister of culture officially opened the newly restored building that housed Turkey's first modern parliament, dating from 1923, a place of great reverence for Turkish people and akin to a national monument to the founder of modern Turkey, Mustafa Kemal Atatürk. Who had paid for the highly costly restoration? Philip Morris, a public company that does not spend its shareholders' money like this without having a clear business objective in mind. The minister had told critics in the health coalition that they were prejudiced, and that this was a simple service to the state; but thanks to the coalition's media advocacy work, public opinion has moved on in Turkey. The minister received a blizzard of protest faxes, and was subjected to stinging criticism in the media for his involvement with a tobacco company whose true motives the press and public seemed to have little difficulty understanding.

It is not hard to see what some of the payback for Philip Morris might be. Shortly before the ceremony at the old parliament, for example, the government's foreign trade office convened a preparatory meeting for the Turkish delegation going to the second Intergovernmental Negotiating Body (INB 2) of the International

Framework Convention on Tobacco Control (FCTC). Among those invited were representatives of Philip Morris, Japan Tobacco (incorporating the old RJ Reynolds international business), and Tekel, the Turkish tobacco monopoly. Some of the industry delegates appeared very confident, variously threatening a woman from the health ministry that they would have her removed from the delegation, and telling a senior professor of chest medicine that they could take him to court. Not surprisingly, this inauspicious start was borne out later by Turkey being openly branded by health advocates at INB2 as one of the countries whose delegation's agenda was the preservation of the tobacco industry, not health.

But worse was to come. Turkey has been going through a severe and prolonged economic crisis, an unfortunate development for a country striving to become a successful player in the international marketplace and a full member of the European Union. So the government applied to the international community for help, and after lengthy negotiations with such bodies as the World Bank and the International Monetary Fund (IMF), and involving discussions with both US and British finance ministers, a deal was struck. If the Turkish government would reform 15 key sectors of the economy, it would receive a substantial IMF loan. Ominously, one of the sectors was tobacco. The bank sent its Turkish vice chairman, Mr Kemal Dervis, to be appointed minister of economics as part of the deal. In May, Mr Dervis signed an agreement with the IMF for \$3.8 billion for the tobacco sector, part of a massive \$17 billion overall injection into Turkey's ailing economy.

One of the conditions of the tobacco loan, as expected, was that Turkey must approve a new tobacco law, whose draft, when revealed, appeared to have been heavily influenced by tobacco companies. It set a capacity threshold whereby companies producing more than two billion pieces in one shift would be given freedom of importation and pricing, a massive advantage that would be denied to smaller manufacturers such as Tekel, soon to be privatised. To the shock of the health community, the bill also prescribed a potentially industry laden committee to control all aspects of tobacco—including health considerations. The government let it be known that all the reforms were stipulated by IMF and the World Bank, in the interests of modernising Turkey's economy along free trade principles. Discreet

inquiries at the bank, however, revealed that on tobacco at least, the very opposite was the truth. The most tobacco friendly parts of the draft bill had come from Turkey.

Fast forward to June, and we see Mr Dervis, the World Bank man in Turkey, frantically telling the minister responsible for privatisation to take out the threshold clause, and insert another stipulating that nothing in the new law should override the existing tobacco control act. The bank, which became officially pro-health on tobacco a decade ago, was anxious not to be blamed for undermining a rare example of a model tobacco control policy in the region. Rather than do the bidding of Mr Dervis, the privatisation minister resigned, though his principles did not seem to be offended so much by the health concession as by the removal of the threshold clause so keenly sought by the big multinationals. Conversely, the bank had picked up an unlikely supporter for the threshold change—BAT. Unlikely, that is, until it is realised that, being a newcomer to Turkey's lucrative market and strategically well placed export base, the threshold would have sidelined not just the state company, but BAT as well.

Parliament approved the tobacco bill with Mr Dervis's amendments, and BAT immediately announced its entry into the Turkish market. Its optimism was short lived. Just two weeks later, in early July, President Sezer vetoed the bill. In addition to the freedom the bill would have given the international tobacco industry, it appears that the President was especially concerned about its threat to four million jobs dependent on tobacco growing.

Whatever happens in Turkey during the next year, it seems that tobacco will dominate the country's part in the FCTC negotiations, and that ultimately, Turkish tobacco policy will boil down to a choice: free, unfettered tobacco trade, or the interests of health being given precedence. This choice, faced and mostly won by health advocates in Thailand in the 1990s in their pioneering appeal to international trade authorities, is likely to surface increasingly around the world over the next few years. The tobacco industry, with everything to play for, will continue to exploit the plight of countries with weak economies to try to ensure that free trade, along with their profits, wins out over health.

## Developing countries take the lead on WHO convention

The World Health Organization FCTC took another step forward in May at the second meeting of the Intergovernmental Negotiating Body (INB 2). At the beginning of the week, the prognosis was gloomy. Tobacco control activists and experts alike were shaking heads about elements of the negotiating text prepared by the chair of the process in January, Mr Celso Amorin. A proposal to ban advertising targeted at under 18s drew especially hostile fire. The text also conflicted with the findings of a WHO expert meeting on product regulation in several places and there was excessive focus on youth prevention measures and weak anti-smuggling provisions. On top of that, the text proposed that "health" should carry the burden of proof in case of "trade" conflicts—subordinating the FCTC to the World Trade Organization agreements. How such a departure from the evidence base could find its way into a document central to the global development of tobacco control remains unexplained. During the meeting non-governmental organisations (NGOs) made representations to the WHO's director general, Dr Brundtland, imploring her to ensure that WHO takes more responsibility for quality control and scientific input to the FCTC. The main technical input in the course of the week long negotiations was the daily overnight *Alliance Bulletin* and the well attended daily lunchtime seminars for delegates organised by the Framework Convention Alliance—a grouping of about 120 NGOs from 50 countries now involved in the convention.

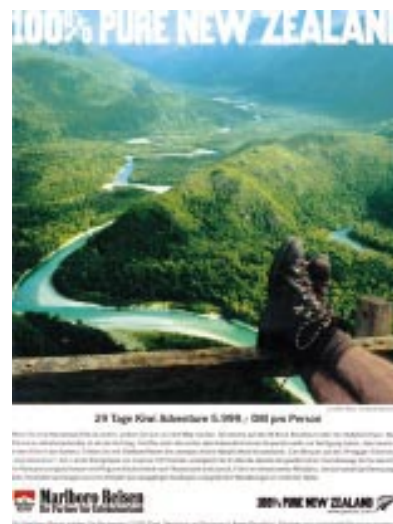
The appointment of a new President in the USA had also dampened expectations and confidence—especially following the Bush administration's withdrawal from the Kyoto Protocol on climate change and the decision to renounce the anti-ballistic missile treaty in the weeks immediately before. At the same time, the European Union had decided to stick slavishly to only those positions

already adopted at EU level, which meant that several of the world's largest or most progressive states for tobacco control were confined with a position. The outlook for international cooperation was looking bleak at the start of the negotiations.

However, the most powerful response came from the developing countries—especially the African region of WHO. The African countries had met in advance and formed a common front, pressing both for progressive tobacco control measures and for measures to assist with agricultural diversification. The inspired move of the Africans rescued the negotiations. The common front, which included the tobacco growers of Zimbabwe and Malawi, gave countries that are all too often marginalised in international negotiations a voice and some influence. It also dispelled the myth inspired by the tobacco industry that poor countries somehow have other, more important, matters to consider than the tobacco epidemic. The Thai government continued its tobacco control leadership, pressing for the most progressive and evidence based positions, and some large countries such as India played a very constructive role. Among the developed countries, Australia, Canada, and New Zealand drew close to becoming a progressive bloc and a counter to the US and European negativity.

The result was that many of the weaker positions in the chair's text received little or no support and a progressive agenda was reintroduced by popular demand from the floor—notably, over 50 countries called for a complete advertising ban. The WHO secretariat was pressurised by determined questioning from Pakistan, as it tried to explain where the trade supremacy clause had come from, and many delegates spoke in favour of placing human life ahead of commerce.

The US delegation, to no-one's surprise, played a largely negative role, blocking, delaying or watering down any concrete proposals. Some NGOs—including my own—felt that the FCTC would be better without the US involved, on the basis that any agreement it was willing to ratify would not be worth having and that if



**New Zealand—Marlboro egg on pure, clean face.** Cigarette promotion is completely banned in New Zealand, but the country's tourist office in Germany placed this ad in partnership with Marlboro Reisen travel in top-selling German lifestyle magazine *Der Spiegel* earlier this year, extolling "100% Pure New Zealand", and featuring the Hollyford Track in Fiordland National Park.

they were not going to ratify, why should they be able to shape the text?

The next stage will be the preparation of a consolidated text—a complex document in which all the texts submitted in the negotiations will be set out as options from which a final text will be negotiated. At the next meeting of the INB in November, the delegates will have to set about reducing this vast Gordian knot of text through negotiation. Choices will have to be made, text removed, compromises forged, limits tested and aspirations dashed.

There is a great investment of time, money, and intellectual capital in these negotiations. Unfortunately, the easiest way to get an agreement is to make sure it is so toothless that it is easy for all comers to sign. There was abundant evidence of the "any agreement will do" tendency in Geneva, but there was also a powerful rejoinder from key developing countries, pressing for a strong and meaningful convention that will be worth the considerable efforts that are going into the negotiations.

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